

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1185

Chapter 339, Laws of 2024

68th Legislature
2024 Regular Session

MERCURY-CONTAINING LIGHTS

EFFECTIVE DATE: June 6, 2024

Passed by the House March 5, 2024
Yeas 54 Nays 42

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate March 1, 2024
Yeas 29 Nays 20

DENNY HECK

President of the Senate

Approved March 28, 2024 2:23 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1185** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 29, 2024

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1185

AS AMENDED BY THE SENATE

Passed Legislature - 2024 Regular Session

State of Washington 68th Legislature 2024 Regular Session

By House Environment & Energy (originally sponsored by Representatives Hackney, Duerr, Berry, Ramel, Fitzgibbon, Doglio, and Pollet)

READ FIRST TIME 01/31/24.

1 AN ACT Relating to reducing environmental impacts associated with
2 lighting products; amending RCW 70A.230.020, 70A.505.010,
3 70A.505.020, 70A.505.030, 70A.505.040, 70A.505.050, 70A.505.060,
4 70A.505.070, 70A.505.100, 70A.505.110, 70A.505.120, 70A.505.130,
5 70A.505.160, 82.04.660, and 70A.230.080; reenacting and amending RCW
6 43.21B.110; adding a new section to chapter 70A.505 RCW; adding a new
7 section to chapter 70A.230 RCW; repealing RCW 70A.505.090, 82.04.660,
8 43.131.421, 43.131.422, 70A.230.150, 70A.505.010, 70A.505.020,
9 70A.505.030, 70A.505.040, 70A.505.050, 70A.505.060, 70A.505.070,
10 70A.505.080, 70A.505.090, 70A.505.100, 70A.505.110, 70A.505.120,
11 70A.505.130, 70A.505.140, 70A.505.150, 70A.505.160, 70A.505.900, and
12 70A.505.901; prescribing penalties; and providing effective dates.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

14 NEW SECTION. **Sec. 1.** (1) The legislature finds that in 2025 the
15 state's stewardship program for the end-of-life management of
16 mercury-containing lights is statutorily scheduled to undergo review
17 and termination or possible extension under chapter 43.131 RCW, the
18 sunset act. If the mercury-containing lights product stewardship
19 program were allowed to sunset as scheduled, Washington residents
20 would lose a consistent, convenient, and safe way to return unwanted
21 mercury-containing lights, which will remain in use for years as

1 existing inventory winds down, even as the lighting industry has
2 moved away from most mercury-containing lights. Mercury-containing
3 lights present such a significant health risk that other states have
4 recently restricted their sale, which represents a solution to reduce
5 the public health impacts of new lighting products, but does not
6 address the end-of-life management issues associated with the
7 existing light bulbs currently in use.

8 (2) The state's existing mercury-containing lights program, which
9 was first enacted over a decade ago, contains policy provisions,
10 including the establishment of a per-bulb fee attached to the sale of
11 mercury-containing lights, that are now recognized as not
12 representing the best practices for the design of stewardship
13 programs.

14 (3) Therefore, it is the intent of the legislature to:

15 (a) Restrict the sale of most mercury-containing lights;

16 (b) Extend the implementation of the stewardship program for
17 mercury-containing lights; and

18 (c) Modernize key elements of the state's mercury-containing
19 lights stewardship program.

20 **Sec. 2.** RCW 70A.230.020 and 2003 c 260 s 3 are each amended to
21 read as follows:

22 (1) Effective January 1, 2004, a manufacturer, wholesaler, or
23 retailer may not knowingly sell at retail a fluorescent lamp if the
24 fluorescent lamp contains mercury and was manufactured after November
25 30, 2003, unless the fluorescent lamp is labeled in accordance with
26 the guidelines listed under subsection (2) of this section. Primary
27 responsibility for affixing labels required under this section is on
28 the manufacturer, and not on the wholesaler or retailer.

29 (2) Except as provided in subsection (3) of this section, a lamp
30 is considered labeled pursuant to subsection (1) of this section if
31 the lamp has all of the following:

32 (a) A label affixed to the lamp that displays the internationally
33 recognized symbol for the element mercury; and

34 (b) A label on the lamp's packaging that: (i) Clearly informs the
35 purchaser that mercury is present in the item; (ii) explains that the
36 fluorescent lamp should be disposed of according to applicable
37 federal, state, and local laws; and (iii) provides a toll-free
38 telephone number, and a uniform resource locator internet address to
39 a website, that contains information on applicable disposal laws.

1 (3) The manufacturer of a mercury-added lamp is in compliance
2 with the requirements of this section if the manufacturer is in
3 compliance with the labeling requirements of another state.

4 (4) The provisions of this section do not apply to products
5 containing mercury-added lamps.

6 (5) (a) Except as provided in (b) of this subsection, beginning
7 January 1, 2029, a manufacturer, wholesaler, or retailer may not
8 knowingly sell a compact fluorescent lamp or linear fluorescent lamp.

9 (b) In-state distributors, wholesalers, and retailers in
10 possession of compact fluorescent lamps or linear fluorescent lamps
11 on January 1, 2029, may exhaust their existing stock through sales to
12 the public until July 1, 2029.

13 (6) The provisions of subsection (5) of this section do not apply
14 to:

15 (a) A special purpose mercury-containing light;

16 (b) The products specified in RCW 70A.230.110; or

17 (c) The sale or purchase of compact fluorescent lamps or linear
18 fluorescent lamps as a casual or isolated sale as defined in RCW
19 82.04.040.

20 (7) A violation of this section is punishable by a civil penalty
21 not to exceed \$1,000 for each violation in the case of a first
22 violation. Repeat violators are liable for a civil penalty not to
23 exceed \$5,000 for each repeat violation. Penalties collected under
24 this section must be deposited in the model toxics control operating
25 account created in RCW 70A.305.180. Penalties imposed under this
26 section are appealable to the pollution control hearings board
27 established in chapter 43.21B RCW.

28 (8) The department may adopt rules to implement, administer, and
29 enforce the requirements of this section.

30 (9) The definitions in this subsection apply throughout this
31 section unless the context clearly requires otherwise.

32 (a) "Compact fluorescent lamp" means a compact low-pressure,
33 mercury-containing, electric-discharge light source in which a
34 fluorescent coating transforms some of the ultraviolet energy
35 generated by the mercury discharge into visible light, and includes
36 all of the following characteristics:

37 (i) One base (end cap) of any type including, but not limited to,
38 screw, bayonet, two pins, and four pins;

39 (ii) Integrally ballasted or nonintegrally ballasted;

1 (iii) Light emission between a correlated color temperature of
2 1700K and 24000K and a Duv of +0.024 and -0.024 in the international
3 commission on illumination (CIE) uniform color space (CAM02-UCS);

4 (iv) All tube diameters and all tube lengths;

5 (v) All lamp sizes and shapes for directional and nondirectional
6 installations including, but not limited to, PL, spiral, twin tube,
7 triple twin, 2D, U-bend, and circular.

8 (b) "Linear fluorescent lamp" means a low-pressure, mercury-
9 containing, electric-discharge light source in which a fluorescent
10 coating transforms some of the ultraviolet energy generated by the
11 mercury discharge into visible light, and includes all of the
12 following characteristics:

13 (i) Two bases (end caps) of any type including, but not limited
14 to, single-pin, two-pin, and recessed double contact;

15 (ii) Light emission between a correlated color temperature of
16 1700K and 24000K and a Duv of +0.024 and -0.024 in the CIE CAM02-UCS;

17 (iii) All tube diameters including, but not limited to, T5, T8,
18 T10, and T12;

19 (iv) All tube lengths from 0.5 to 8.0 feet, inclusive; and

20 (v) All lamp shapes including, but not limited to, linear, U-
21 bend, and circular.

22 (c) "Special purpose mercury-containing light" includes any of
23 the following lights that contain mercury:

24 (i) A lamp designed and marketed exclusively for image capture
25 and projection, including photocopying, printing, either directly or
26 in preprocessing, lithography, film and video projection, and
27 holography; or

28 (ii) A lamp that has a high proportion of ultraviolet light
29 emission and is one of the following:

30 (A) A lamp with high ultraviolet content that has ultraviolet
31 power greater than two milliwatts per kilolumen (mW/klm);

32 (B) A lamp for germicidal use, such as the destruction of DNA,
33 that emits a peak radiation of approximately 253.7 nanometers;

34 (C) A lamp designed and marketed exclusively for disinfection or
35 fly trapping from which either the radiation power emitted between
36 250 and 315 nanometers represents at least five percent of, or the
37 radiation power emitted between 315 and 400 nanometers represents at
38 least 20 percent of, the total radiation power emitted between 250
39 and 800 nanometers;

1 (D) A lamp designed and marketed exclusively for the generation
2 of ozone where the primary purpose is to emit radiation at
3 approximately 185.1 nanometers;

4 (E) A lamp designed and marketed exclusively for coral
5 zooxanthellae symbiosis from which the radiation power emitted
6 between 400 and 480 nanometers represents at least 40 percent of the
7 total radiation power emitted between 250 and 800 nanometers;

8 (F) Any lamp designed and marketed exclusively in a sunlamp
9 product, defined as any electronic product designed to incorporate
10 one or more ultraviolet lamps and intended for irradiation of any
11 part of the living human body, by ultraviolet radiation;

12 (G) Any lamp designed and marketed exclusively for use in a
13 sunlamp product, as defined in 21 C.F.R. Sec. 1040.20(b)(9), January
14 1, 2023;

15 (H) A lamp designed and marketed exclusively for use in medical
16 or veterinary diagnosis or treatment, or in a medical device;

17 (I) A lamp designed and marketed exclusively for use in the
18 manufacturing or quality control of pharmaceutical products;

19 (J) A lamp designed and marketed exclusively for spectroscopy and
20 photometric applications, such as UV-visible spectroscopy, molecular
21 spectroscopy, atomic absorption spectroscopy, nondispersive infrared
22 (NDIR), Fourier transform infrared (FTIR), medical analysis,
23 ellipsometry, layer thickness measurement, process monitoring, or
24 environmental monitoring;

25 (K) A lamp used by academic and research institutions for
26 conducting research projects and experiments; or

27 (L) A compact fluorescent lamp used to replace a lamp in a motor
28 vehicle manufactured on or before January 1, 2020.

29 **Sec. 3.** RCW 70A.505.010 and 2010 c 130 s 1 are each amended to
30 read as follows:

31 The legislature finds that:

32 (1) Mercury is an essential component of many energy efficient
33 lights. Improper disposal methods will lead to mercury releases that
34 threaten the environment and harm human health. Spent mercury
35 lighting is a hard to collect waste product that is appropriate for
36 product stewardship;

37 (2) Convenient and environmentally sound product stewardship
38 programs for mercury-containing lights that include collecting,

1 transporting, and recycling mercury-containing lights will help
2 protect Washington's environment and the health of state residents;

3 (3) (a) The purpose of this chapter (~~(130, Laws of 2010)~~) is to
4 achieve a statewide goal of recycling all end-of-life mercury-
5 containing lights (~~(by 2020)~~) through expanded public education, a
6 uniform statewide requirement to recycle all mercury-containing
7 lights, and the development of a comprehensive, safe, and convenient
8 collection system that includes use of residential curbside
9 collection programs, mail-back containers, increased support for
10 household hazardous waste facilities, and a network of additional
11 collection locations;

12 (b) The purpose of this act is to reduce exposure to mercury by
13 prohibiting the sale of most mercury-containing lights beginning in
14 2029 and to provide continuing collection of mercury-containing
15 lights that have already entered the marketplace;

16 (4) Product producers must play a significant role in financing
17 no-cost collection and processing programs for mercury-containing
18 lights; and

19 (5) Providers of premium collection services such as residential
20 curbside and mail-back programs may charge a fee to cover the
21 collection costs for these more convenient forms of collection.

22 **Sec. 4.** RCW 70A.505.020 and 2020 c 20 s 1414 are each amended to
23 read as follows:

24 The definitions in this section apply throughout this chapter
25 unless the context clearly requires otherwise.

26 (1) "Brand" means a name, symbol, word, or mark that identifies a
27 product, rather than its components, and attributes the product to
28 the owner of the brand as the producer.

29 (2) "Collection" or "collect" means, except for persons involved
30 in mail-back programs:

31 (a) The activity of accumulating any amount of mercury-containing
32 lights at a location other than the location where the lights are
33 used by covered entities, and includes curbside collection
34 activities, household hazardous waste facilities, and other
35 registered drop-off locations; and

36 (b) The activity of transporting mercury-containing lights in the
37 state, where the transporter is not a generator of unwanted mercury-
38 containing lights, to a location for purposes of accumulation.

39 (3) "Covered entities" means:

1 (a) A household generator or other person who purchases mercury-
2 containing lights at retail and delivers no more than ~~((ten))~~ the
3 following amounts of mercury-containing lights to registered
4 collectors for a product stewardship program on any given day:

5 (i) An unlimited number of compact fluorescent lamps, as defined
6 in RCW 70A.230.020, that are mercury-containing lights under this
7 chapter and that feature a screw base;

8 (ii) 15 pin-based compact or linear fluorescent lamps, as defined
9 in RCW 70A.230.020, that are mercury-containing lights under this
10 chapter; and

11 (iii) Two high-intensity discharge lamps that are mercury-
12 containing lights under this chapter; and

13 (b) A household generator or other person who purchases mercury-
14 containing lights at retail and utilizes a registered residential
15 curbside collection program or a mail-back program for collection of
16 mercury-containing lights and discards no more than ~~((fifteen))~~ 15
17 mercury-containing lights into those programs on any given day.

18 (4) "Department" means the department of ecology.

19 (5) "Environmental handling charge" or "charge" means the charge
20 approved by the department to be applied to each mercury-containing
21 light to be sold at retail in or into Washington state until December
22 31, 2028. The environmental handling charge must cover ~~((all))~~
23 current administrative and operational costs associated with the
24 product stewardship program, including the fee for the department's
25 administration and enforcement.

26 (6) "Final disposition" means the point beyond which no further
27 processing takes place and materials from mercury-containing lights
28 have been transformed for direct use as a feedstock in producing new
29 products, or disposed of or managed in permitted facilities.

30 (7) "Hazardous substances" or "hazardous materials" means those
31 substances or materials identified by rules adopted under chapter
32 70A.300 RCW.

33 (8) "Mail-back program" means the use of a prepaid postage
34 container, with mercury vapor barrier packaging that is used for the
35 collection and recycling of mercury-containing lights from covered
36 entities as part of a product stewardship program and is transported
37 by the United States postal service or a common carrier.

38 (9) "Mercury-containing lights" means lamps, bulbs, tubes, or
39 other devices that contain mercury and provide functional
40 illumination in homes, businesses, and outdoor stationary fixtures.

1 (10) "Mercury vapor barrier packaging" means sealable containers
2 that are specifically designed for the storage, handling, and
3 transport of mercury-containing lights in order to prevent the escape
4 of mercury into the environment by volatilization or any other means,
5 and that meet the requirements for transporting by the United States
6 postal service or a common carrier.

7 (11) "Orphan product" means a mercury-containing light that lacks
8 a producer's brand, or for which the producer is no longer in
9 business and has no successor in interest, or that bears a brand for
10 which the department cannot identify an owner.

11 (12) "Person" means a sole proprietorship, partnership,
12 corporation, nonprofit corporation or organization, limited liability
13 company, firm, association, cooperative, or other legal entity
14 located within or outside Washington state.

15 (13) "Processing" means recovering materials from unwanted
16 products for use as feedstock in new products. (~~Processing must~~
17 ~~occur at permitted facilities.~~)

18 (14) "Producer" means a person that:

19 (a) Has or had legal ownership of the brand, brand name, or
20 cobrand of a mercury-containing light sold in or into Washington
21 state, unless the brand owner is a retailer whose mercury-containing
22 light was supplied by another producer participating in a stewardship
23 program under this chapter;

24 (b) Imports or has imported mercury-containing lights branded by
25 a producer that meets the requirements of (a) of this subsection and
26 where that producer has no physical presence in the United States;

27 (c) If (a) and (b) of this subsection do not apply, makes or made
28 a mercury-containing light that is sold or has been sold in or into
29 Washington state; or

30 (d) (i) Sells or sold at wholesale or retail a mercury-containing
31 light; (ii) does not have legal ownership of the brand; and (iii)
32 elects to fulfill the responsibilities of the producer for that
33 product.

34 (15) "Product stewardship" means a requirement for a producer of
35 mercury-containing lights to manage and reduce adverse safety,
36 health, and environmental impacts of the product throughout its life
37 cycle, including financing and providing for the collection,
38 transporting, reusing, recycling, processing, and final disposition
39 of their products.

1 (16) "Product stewardship plan" or "plan" means a detailed plan
2 describing the manner in which a product stewardship program will be
3 implemented.

4 (17) "Product stewardship program" or "program" means the
5 methods, systems, and services financed in the manner provided for
6 under RCW 70A.505.050 and provided by producers or legacy producers
7 of mercury-containing lights generated by covered entities that
8 addresses product stewardship and includes arranging for the
9 collection, transportation, recycling, processing, and final
10 disposition of unwanted mercury-containing lights, including orphan
11 products.

12 (18) "Recovery" means the collection and transportation of
13 unwanted mercury-containing lights under this chapter.

14 (19)(a) "Recycling" means transforming or remanufacturing
15 unwanted products into usable or marketable materials for use other
16 than landfill disposal or incineration.

17 (b) "Recycling" does not include energy recovery or energy
18 generation by means of combusting unwanted products with or without
19 other waste.

20 (20) "Reporting period" means the period commencing January 1st
21 and ending December 31st in the same calendar year.

22 (21) "Residuals" means nonrecyclable materials left over from
23 processing an unwanted product.

24 (22) "Retailer" means a person who offers mercury-containing
25 lights for sale at retail through any means including, but not
26 limited to, remote offerings such as sales outlets, catalogs, or the
27 internet, but does not include a sale that is a wholesale transaction
28 with a distributor or a retailer.

29 (23)(a) "Reuse" means a change in ownership of a mercury-
30 containing light or its components, parts, packaging, or shipping
31 materials for use in the same manner and purpose for which it was
32 originally purchased, or for use again, as in shipping materials, by
33 the generator of the shipping materials.

34 (b) "Reuse" does not include dismantling of products for the
35 purpose of recycling.

36 (24) "Stakeholder" means a person who may have an interest in or
37 be affected by a product stewardship program.

38 (25) "Stewardship organization" means an organization designated
39 by a producer, legacy producer, or group of producers or legacy

1 producers to act as an agent on behalf of each producer or legacy
2 producer to operate a product stewardship program.

3 (26) "Unwanted product" means a mercury-containing light no
4 longer wanted by its owner or that has been abandoned, discarded, or
5 is intended to be discarded by its owner.

6 (27) "Legacy producer" means a producer that was required to
7 participate in the product stewardship program established by this
8 chapter at any point in time between January 1, 2015, and December
9 31, 2028.

10 (28) "Market share" means the percentage of mercury-containing
11 lights that were products for which a producer had an obligation to
12 participate in the program created in this chapter at any point in
13 time between January 1, 2015, and December 31, 2028, by units sold
14 during that period of time, as determined by the stewardship
15 organization in RCW 70A.505.050.

16 **Sec. 5.** RCW 70A.505.030 and 2020 c 20 s 1415 are each amended to
17 read as follows:

18 (1)(a) Every producer of mercury-containing lights sold, made
19 available for sale, or distributed in or into Washington state for
20 retail sale in Washington state, including legacy producers, must
21 participate in a product stewardship program for those products,
22 operated by a stewardship organization and financed in the manner
23 provided by RCW 70A.505.050. Every such producer must inform the
24 department of the producer's participation in a product stewardship
25 program by including the producer's name in a plan submitted to the
26 department by a stewardship organization as required by RCW
27 70A.505.040. Producers, including legacy producers, must satisfy
28 these participation obligations individually or may do so jointly
29 with other producers.

30 (b) Except as provided in (c) of this subsection, a stewardship
31 organization implementing an approved program under this chapter must
32 continue to implement an approved program until December 31, 2028,
33 and may continue to do so in the form and manner described in the
34 plan approved by the department as of January 1, 2024, until December
35 31, 2028. The provisions of this act apply to programs that a
36 stewardship organization must implement beginning January 1, 2029,
37 and to the rule adoption, fee payment to the department, plan
38 submission, and plan approval processes that predate the
39 implementation of the new program to begin January 1, 2029. Changes

1 to the limits of mercury-containing lights accepted at collection
2 sites must take effect January 1, 2025.

3 (c) A stewardship organization may only increase the amount of
4 the environmental handling charge established under this chapter from
5 the amount that was approved by the department as of January 1, 2024,
6 in a manner consistent with RCW 70A.505.050. Additional stewardship
7 organization costs that are not adequately covered by the
8 environmental handling charge and that derive from activities
9 occurring between the effective date of this section and December 31,
10 2028, must be funded by participant members of the stewardship
11 organization.

12 (2) ((A)) Until December 31, 2028, a stewardship organization
13 operating a product stewardship program must pay ((all))
14 administrative and operational costs associated with its current
15 program with revenues received from the environmental handling charge
16 ((described in RCW 70A.505.050. The stewardship organization's
17 administrative and operational costs are not required to include a
18 collection location's cost of receiving, accumulating and storing,
19 and packaging mercury-containing lights. However, a)) imposed under
20 the plan approved by the department prior to the effective date of
21 this section. For program administrative and operational costs
22 related to the implementation of program requirements in calendar
23 year 2029, a stewardship organization may plan to use reserve funds
24 in the possession of the stewardship organization from the
25 environmental handling charges assessed until December 31, 2028. For
26 program administrative and operational costs related to the planning
27 and implementation of the program requirements that must be
28 implemented beginning in calendar year 2030, a stewardship
29 organization operating a product stewardship program must pay all
30 administrative and operational costs associated with its program with
31 revenues received from participating legacy producers. A stewardship
32 organization may offer incentives or payments to collectors. The
33 stewardship organization's administrative and operational costs do
34 not include the collection costs associated with curbside and mail-
35 back collection programs. The stewardship organization must arrange
36 for collection service at locations described in subsection (4) of
37 this section, which may include household hazardous waste facilities,
38 charities, retailers, government recycling sites, or other suitable
39 private locations. No such entity is required to provide collection
40 services at their location. For curbside and mail-back programs, a

1 stewardship organization must pay the costs of transporting mercury-
2 containing lights from accumulation points and for processing
3 mercury-containing lights collected by curbside and mail-back
4 programs. For collection locations, including household hazardous
5 waste facilities, charities, retailers, government recycling sites,
6 or other suitable private locations, a stewardship organization must
7 pay the costs of packaging and shipping materials as required under
8 RCW 70A.505.070 or must compensate collectors for the costs of those
9 materials, and must pay the costs of transportation and processing of
10 mercury-containing lights collected from the collection locations.

11 (3) Product stewardship programs shall collect unwanted mercury-
12 containing lights delivered from covered entities for recycling,
13 processing, or final disposition, and ~~((not charge))~~ are prohibited
14 from charging a fee when lights are sold, dropped off, or delivered
15 into the program.

16 (4) (a) Product stewardship programs shall provide, at a minimum,
17 no cost services in all cities in the state with populations greater
18 than ~~((ten thousand))~~ 10,000 and all counties of the state on an
19 ongoing, year-round basis.

20 (b) (i) The department may amend the convenience standards
21 established in this section to relieve a stewardship organization of
22 its obligation to operate a collection site or to provide a
23 collection opportunity when it is demonstrated by the stewardship
24 organization to:

25 (A) Result in the annual collection of fewer than 500 mercury-
26 containing lights; and

27 (B) Not remove collection opportunities for people living in a
28 rural county or an overburdened community.

29 (ii) For the purposes of this subsection (4) (b), "rural county"
30 has the same meaning provided in RCW 82.14.370 and "overburdened
31 community" has the same meaning provided in RCW 70A.02.010.

32 (5) Product stewardship programs shall promote the safe handling
33 and recycling of mercury-containing lights to the public, including
34 producing and offering point-of-sale educational materials to
35 retailers of mercury-containing lights and point-of-return
36 educational materials to collection locations.

37 (6) All product stewardship programs operated under approved
38 plans must recover their fair share of unwanted ~~((covered products))~~
39 mercury-containing lights as determined by the department.

1 (7) The department or its designee may inspect, audit, or review
2 audits of processing and disposal facilities used to fulfill the
3 requirements of a product stewardship program.

4 (8) No product stewardship program required under this chapter
5 may use federal or state prison labor for processing unwanted
6 products.

7 (9) Product stewardship programs for mercury-containing lights
8 must be fully implemented by January 1, 2015. Product stewardship
9 programs for mercury-containing lights meeting the new requirements
10 of this act must be fully implemented by January 1, 2029.

11 **Sec. 6.** RCW 70A.505.040 and 2020 c 20 s 1416 are each amended to
12 read as follows:

13 (1) (a) On (~~June~~) January 1st of the year prior to
14 implementation, each producer must ensure that a stewardship
15 organization submits a proposed product stewardship plan on the
16 producer's behalf to the department for approval. Plans approved by
17 the department must be implemented by January 1st of the following
18 calendar year.

19 (b) A stewardship organization that plans to implement a
20 stewardship plan in calendar year 2029 must submit a new or updated
21 plan by January 1, 2028. The new or updated plan under this
22 subsection (1)(b) must address the changes required of program
23 operations by this act.

24 (2) The department shall establish rules for plan content. Plans
25 must include but are not limited to:

26 (a) All necessary information to inform the department about the
27 plan operator and participating producers or legacy producers and
28 their brands;

29 (b) The management and organization of the product stewardship
30 program that will oversee the collection, transportation, and
31 processing services;

32 (c) The identity of collection, transportation, and processing
33 service providers, including a description of the consideration given
34 to existing residential curbside collection infrastructure and mail-
35 back systems as an appropriate collection mechanism and a list of all
36 current and proposed collection sites to be used by the program,
37 including the latitude and longitude of each collection site;

38 (d) How the product stewardship program will seek to use
39 businesses within the state, including transportation services,

1 retailers, collection sites and services, existing curbside
2 collection services, existing mail-back services, and processing
3 facilities;

4 (e) A description of how the public will be informed about the
5 product stewardship program, including how consumers will be provided
6 with information describing collection opportunities for unwanted
7 mercury-containing lights from covered entities and safe handling of
8 mercury-containing lights, waste prevention, and recycling. ~~((The))~~
9 Until December 31, 2028, the description must also include
10 information to make consumers aware that an environmental handling
11 charge has been added to the purchase price of mercury-containing
12 lights sold at retail to fund the mercury-containing light
13 stewardship programs in the state. The environmental handling charge
14 may not be described as a department recycling fee or charge at the
15 point of retail sale. Beginning January 1, 2029, these efforts must
16 include the development:

17 (i) And maintenance of a website;

18 (ii) And distribution of periodic press releases and articles;

19 (iii) And placement of public service announcements and graphic
20 advertisements for use on social media or other relevant media
21 platforms;

22 (iv) Of promotional materials about the program and the
23 restriction on the disposal of mercury-containing lights in section
24 19 of this act to be used by retailers, government agencies, and
25 nonprofit organizations;

26 (v) And distribution of the collection site safety training
27 procedures procedural manual approved by the department to collection
28 sites to help ensure proper management of unwanted mercury-containing
29 lights at collection locations;

30 (vi) And implementation of outreach and educational resources
31 targeted to overburdened communities and vulnerable populations
32 identified by the department under chapter 70A.02 RCW that are
33 conceptually, linguistically, and culturally accurate for the
34 communities served and reach the state's diverse ethnic populations,
35 including through meaningful consultation with communities that bear
36 disproportionately higher levels of adverse environmental and social
37 justice impacts;

38 (vii) And distribution of consumer-focused educational
39 promotional materials to each collection location used by the program

1 and accessible by customers of retailers that sell mercury-containing
2 lights;

3 (viii) And distribution of safety information related to light
4 collection activities to the operator of each collection site; and

5 (ix) And implementation of a periodic survey of public awareness
6 regarding the requirements of the program established under this
7 chapter, carried out at least every five years and the results of
8 which must be shared with the department;

9 (f) A description of the financing system required under RCW
10 70A.505.050;

11 (g) How mercury and other hazardous substances will be handled
12 for collection through final disposition, including:

13 (i) Mercury spill and release response plans for use by
14 collection locations that describes the materials, equipment, and
15 procedures that will be used to respond to any mercury release from
16 an unwanted mercury-containing light; and

17 (ii) Worker safety plans for use by collection locations that
18 describes the handling of the unwanted mercury-containing lights at
19 the collection location and measures that will be taken to protect
20 worker health and safety;

21 (h) A public review and comment process; and

22 (i) Any other information deemed necessary by the department to
23 ensure an effective mercury light product stewardship program that is
24 in compliance with all applicable laws and rules.

25 (3) All plans submitted to the department must be made available
26 for public review on the department's website (~~and at the~~
27 ~~department's headquarters~~)).

28 (~~At least two years from the start of the product~~
29 ~~stewardship program and once every four~~) No less often than three
30 years from the dates specified in subsection (1) of this section and
31 once every five years thereafter, each stewardship organization
32 operating a product stewardship program must update its product
33 stewardship plan and submit the updated plan to the department for
34 review and approval according to rules adopted by the department.

35 (5) By June 1, 2016, and each June 1st thereafter, each
36 stewardship organization must submit an annual report to the
37 department describing the results of implementing the stewardship
38 organization's plan for the prior calendar year, including an
39 independent financial audit once every two years. The department may

1 adopt rules for reporting requirements. Financial information
2 included in the annual report must include but is not limited to:

3 (a) ~~((The))~~ For programs operating until December 31, 2028, the
4 amount of the environmental handling charge assessed on mercury-
5 containing lights and the revenue generated;

6 (b) Identification of confidential information pursuant to RCW
7 43.21A.160 submitted in the annual report; and

8 (c) The cost and revenue of the mercury-containing lights product
9 stewardship program, including line item costs for:

10 (i) Program operations, including collection, transportation, and
11 processing;

12 (ii) Communications, including media, printing and fulfillment,
13 public relations, and other education and outreach projects;

14 (iii) Administration, including administrative personnel costs,
15 travel, compliance and auditing, legal services, banking services,
16 insurance, and other administrative services and supplies, and
17 stewardship organization corporate expenses; and

18 (iv) Amount of unallocated reserve funds.

19 (6) Beginning in 2023 every stewardship organization must include
20 in its annual report ~~((an analysis of the percent of total sales of~~
21 ~~lights sold at retail to covered entities in Washington that mercury-~~
22 ~~containing lights constitute, the estimated number of mercury-~~
23 ~~containing lights in use by covered entities in the state, and the~~
24 ~~projected number of unwanted mercury-containing lights to be recycled~~
25 ~~in future years)) a list of all collection sites, including address
26 and latitude and longitude, anticipated to be used by the program in
27 the upcoming year.~~

28 (7) As a component of all new or updated plans under this chapter
29 submitted by a stewardship organization after January 1, 2025, the
30 stewardship organization must submit:

31 (a) A contingency plan demonstrating how the activities in the
32 plan will continue to be carried out by some other entity, such as an
33 escrow company:

34 (i) Until such time as a new plan is submitted and approved by
35 the department;

36 (ii) In the event that the stewardship organization has been
37 notified by the department that they must transfer implementation
38 responsibility for the program to a different stewardship
39 organization;

1 (iii) In the event that the stewardship organization notifies the
2 department that it will cease to implement an approved plan; or

3 (v) In any other event that the stewardship organization can no
4 longer carry out plan implementation; and

5 (b) Performance goals that measure, on an annual basis, the
6 achievements of the program. Performance goals must take into
7 consideration technical feasibility and economic practicality in
8 achieving continuous, meaningful progress in improving:

9 (i) The rate of mercury-containing light collection for recycling
10 in Washington;

11 (ii) The level of convenience and access for all residents; and

12 (iii) Public awareness of the program.

13 (8) All plans and reports submitted to the department must be
14 made available for public review, excluding sections determined to be
15 confidential pursuant to RCW 43.21A.160, on the department's website
16 ((and at the department's headquarters)).

17 **Sec. 7.** RCW 70A.505.050 and 2020 c 20 s 1417 are each amended to
18 read as follows:

19 (1) Each stewardship organization must recommend to the
20 department an environmental handling charge to be added to the price
21 of each mercury-containing light sold in or into the state of
22 Washington for sale at retail until December 31, 2028. The
23 environmental handling charge must be designed to provide revenue
24 necessary and sufficient to cover all administrative and operational
25 costs associated with the stewardship program described in the
26 department-approved product stewardship plan for that organization(~~(7~~
27 ~~including the department's annual fee required by subsection (5) of~~
28 ~~this section, and a prudent reserve)) through calendar year 2029 of
29 program expenses. The stewardship organization must consult with
30 collectors, retailers, recyclers, and each of its participating
31 producers in developing its recommended environmental handling
32 charge. The environmental handling charge may, but is not required
33 to, vary by the type of mercury-containing light. In developing its
34 recommended environmental handling charge, the stewardship
35 organization must take into consideration and report to the
36 department:~~

37 (a) The anticipated number of mercury-containing lights that will
38 be sold to covered entities in the state at retail during the
39 relevant period;

1 (b) The number of unwanted mercury-containing lights delivered
2 from covered entities expected to be recycled during the relevant
3 period;

4 (c) The operational costs of the stewardship organization as
5 described in RCW 70A.505.030(2);

6 (d) The administrative costs of the stewardship organization
7 including the department's annual fee, described in subsection (5) of
8 this section; and

9 (e) The cost of other stewardship program elements including
10 public outreach.

11 (2) The department must review, adjust if necessary, and approve
12 the stewardship organization's recommended environmental handling
13 charge within (~~sixty~~) 60 days of submittal. In making its
14 determination, the department shall review the product stewardship
15 plan and may consult with the producers, the stewardship
16 organization, retailers, collectors, recyclers, and other entities.

17 (3) No sooner than January 1, 2015, and through calendar year
18 2028 of program implementation:

19 (a) The mercury-containing light environmental handling charge
20 must be added to the purchase price of all mercury-containing lights
21 sold to Washington retailers for sale at retail, and each Washington
22 retailer shall add the charge to the purchase price of all mercury-
23 containing lights sold at retail in this state, and the producer
24 shall remit the environmental handling charge to the stewardship
25 organization in the manner provided for in the stewardship plan; or

26 (b) Each Washington retailer must add the mercury-containing
27 light environmental handling charge to the purchase price of all
28 mercury-containing lights sold at retail in this state, where the
29 retailer, by voluntary binding agreement with the producer, arranges
30 to remit the environmental handling charge to the stewardship
31 organization on behalf of the producer in the manner provided for in
32 the stewardship plan. Producers may not require retailers to opt for
33 this provision via contract, marketing practice, or any other means.
34 The stewardship organization must allow retailers to retain a portion
35 of the environmental handling charge as reimbursement for any costs
36 associated with the collection and remittance of the charge.

37 (4) At any time, a stewardship organization may submit to the
38 department a recommendation for an adjusted environmental handling
39 charge for the department's review, adjustment, if necessary, and
40 approval under subsection (2) of this section to ensure that there is

1 sufficient revenue to fund the cost of the program, current deficits,
2 or projected needed reserves for the next year. Until December 31,
3 2028, a stewardship organization may submit to the department a
4 recommended adjustment to the environmental handling charge that is
5 designed to provide revenue necessary and sufficient to cover all
6 administrative and operational costs associated with the stewardship
7 program described in the department-approved product stewardship plan
8 for that organization. The stewardship organization may propose to
9 use revenues from environmental handling charges to cover program
10 expenses through calendar year 2029. The department must review the
11 stewardship organization's recommended environmental handling charge
12 and must adjust or approve the recommended charge within thirty days
13 of submittal if the department determines that the charge is
14 reasonably designed to meet the criteria described in subsection (1)
15 of this section.

16 (5) (a) Beginning with calendar year 2029 of program
17 implementation, each stewardship organization must develop and
18 implement a system to collect charges from participating legacy
19 producers to cover the costs of plan implementation based on the
20 market share of participating producers using all reasonable means
21 and based on the best available information. A stewardship
22 organization must determine each producer's percentage of market
23 share by:

24 (i) To the extent data necessary to make such a calculation are
25 available, dividing each legacy producer's total units of mercury-
26 containing lights for which the producer had an obligation under this
27 chapter sold in Washington at any point in time between January 1,
28 2015, and December 31, 2028, by the sum total of all units of
29 mercury-containing lights sold in or into Washington by all
30 participating legacy producers at any point in time between January
31 1, 2015, and December 31, 2028; and

32 (ii) To the extent that data specified in (a)(i) of this
33 subsection are not fully available, extrapolating a reasonable
34 approximation of a manufacturer's market share similar to the
35 calculation specified in (a)(i) of this section based on the data
36 available to the stewardship organization.

37 (b) To determine the market share of legacy producers, a
38 stewardship organization may:

39 (i) Require data from legacy producers. A stewardship
40 organization may notify the department if a legacy producer has

1 declined to respond within 90 days to a demand for data by a
2 stewardship organization and the department may demand the
3 information if it is determined to be necessary to calculate the
4 market share of the legacy producer; and

5 (ii) Use any combination of the following types of data:

6 (A) Generally available market research data;

7 (B) Data historically provided by producers or retailers to a
8 stewardship organization or the department under this chapter;

9 (C) Sales data supplied by producers; and

10 (D) Sales data provided by retailers.

11 (c) The amendments to the method of financing the program
12 described in this act must be implemented by a stewardship
13 organization by January 1, 2029.

14 (6) Beginning with calendar year 2029 of program implementation,
15 each stewardship organization is responsible for all costs of
16 participating mercury-containing light collection, transportation,
17 processing, education, administration, agency reimbursement,
18 recycling, and end-of-life management in accordance with
19 environmentally sound management practices.

20 (7) Beginning March 1, 2015, ((and each year thereafter,)) until
21 March 1, 2024, each stewardship organization shall pay to the
22 department an annual fee equivalent to ((three thousand dollars))
23 \$3,000 for each participating producer to cover the department's
24 administrative and enforcement costs. Beginning March 1, 2025, each
25 stewardship organization shall pay to the department the annual fee
26 to cover the department's administrative and enforcement costs. The
27 department must apply any remaining annual payment funds from the
28 current year to the annual payment for the coming fiscal year if the
29 collected annual payment exceeds the department's costs for a given
30 year and increase annual payments for the coming fiscal year to cover
31 the department's fees if the collected annual payment was less than
32 the department's costs for a given year. The amount paid under this
33 section must be deposited into the mercury-containing light product
34 stewardship programs account created in RCW 70A.505.120.

35 **Sec. 8.** RCW 70A.505.060 and 2010 c 130 s 6 are each amended to
36 read as follows:

37 (1) All mercury-containing lights and materials recovered from
38 mercury-containing lights collected in the state by product
39 stewardship programs or other collection programs must be recycled

1 and any process residuals must be managed in compliance with
2 applicable laws.

3 (2) Mercury recovered from retorting and other hazardous
4 materials must be recycled or placed in a properly permitted
5 hazardous waste landfill, or placed in a properly permitted mercury
6 repository.

7 **Sec. 9.** RCW 70A.505.070 and 2010 c 130 s 7 are each amended to
8 read as follows:

9 (1) Except for persons involved in registered mail-back programs,
10 a person who collects unwanted mercury-containing lights in the
11 state, receives funding through a product stewardship program for
12 mercury-containing lights, and who is not a generator of unwanted
13 mercury-containing lights must:

14 (a) Register with the department as a collector of unwanted
15 mercury-containing lights. Until the department adopts rules for
16 collectors, the collector must provide to the department the legal
17 name of the person or entity owning and operating the collection
18 location, the address and phone number of the collection location,
19 and the name, address, and phone number of the individual responsible
20 for operating the collection location and update any changes in this
21 information within thirty days of the change;

22 (b) Maintain a spill and release response plan at the collection
23 location that describes the materials, equipment, and procedures that
24 will be used to respond to any mercury release from an unwanted
25 mercury-containing light;

26 (c) Maintain a worker safety plan at the collection location that
27 describes the handling of the unwanted mercury-containing lights at
28 the collection location and measures that will be taken to protect
29 worker health and safety; and

30 (d) Use packaging and shipping material that will minimize the
31 release of mercury into the environment and minimize breakage and use
32 mercury vapor barrier packaging if mercury-containing lights are
33 transported by the United States postal service or a common carrier.

34 (2) A person who operates a curbside collection program or owns
35 or operates a mail-back business participating in a product
36 stewardship program for mercury-containing lights and uses the United
37 States postal service or a common carrier for transport of mercury-
38 containing lights must register with the department and use mercury

1 vapor barrier packaging for curbside collection and mail-back
2 containers.

3 **Sec. 10.** RCW 70A.505.100 and 2010 c 130 s 10 are each amended to
4 read as follows:

5 (1) (a) ~~The department ((shall send a written warning and a copy~~
6 ~~of this chapter and any rules adopted to implement this chapter to a~~
7 ~~producer who is not participating in a product stewardship program~~
8 ~~approved by the department and whose mercury-containing lights are~~
9 ~~being sold in or into the state.~~

10 ~~(2) A producer not participating in a product stewardship program~~
11 ~~approved by the department whose mercury-containing lights continue~~
12 ~~to be sold in or into the state sixty days after receiving a written~~
13 ~~warning from the department shall be assessed a penalty of up to one~~
14 ~~thousand dollars for each violation. A violation is one day of sales.~~

15 ~~(3) If any producer fails to implement its approved plan, the~~
16 ~~department shall assess a penalty of up to five thousand dollars for~~
17 ~~the first violation along with notification that the producer must~~
18 ~~implement its plan within thirty days of the violation. After thirty~~
19 ~~days, any producer failing to implement their approved plan must be~~
20 ~~assessed a penalty of up to ten thousand dollars for the second and~~
21 ~~each subsequent violation. A subsequent violation occurs each thirty-~~
22 ~~day period that the producer fails to implement the approved plan.~~

23 ~~(4) The department shall send a written warning to a producer~~
24 ~~that fails to submit a product stewardship plan, update or change the~~
25 ~~plan when required, or submit an annual report as required under this~~
26 ~~chapter. The written warning must include compliance requirements and~~
27 ~~notification that the requirements must be met within sixty days. If~~
28 ~~requirements are not met within sixty days, the producer will be~~
29 ~~assessed a ten thousand dollar penalty per day of noncompliance~~
30 ~~starting with the first day of notice of noncompliance.~~

31 ~~(5) Penalties prescribed under this section must be reduced by~~
32 ~~fifty percent if the producer complies within thirty days of the~~
33 ~~second violation notice.~~

34 ~~(6) A producer may appeal penalties prescribed under this section~~
35 ~~to the pollution control hearings board created under chapter 43.21B~~
36 ~~RCW)) may administratively impose a civil penalty on a person who~~
37 ~~violates this chapter in an amount of up to \$1,000 per violation per~~
38 ~~day.~~

1 (b) The department may administratively impose a civil penalty of
2 up to \$10,000 per violation per day on a person for repeated
3 violations of this chapter or failure to comply with an order issued
4 under (c) of this subsection.

5 (c) Whenever on the basis of any information the department
6 determines that a person has violated or is in violation of this
7 chapter, including the failure by a stewardship organization to
8 achieve performance goals proposed in a plan or the failure by a
9 legacy producer to respond to a requirement for information by a
10 stewardship organization under RCW 70A.505.050, the department may
11 issue an order requiring compliance. A person who fails to take
12 corrective action as specified in a compliance order is liable for a
13 civil penalty as provided in (b) of this subsection, without
14 receiving a written warning prescribed in (e) of this subsection.

15 (d) A person who is issued an order or incurs a penalty under
16 this section may appeal the order or penalty to the pollution control
17 hearings board established by chapter 43.21B RCW.

18 (e) Prior to imposing penalties under this section, the
19 department must provide a producer, legacy producer, retailer, or
20 stewardship organization with a written warning for the first
21 violation by the producer, legacy producer, retailer, or stewardship
22 organization of the requirements of this chapter. The written warning
23 must inform a producer, legacy producer, retailer, or stewardship
24 organization that it must participate in an approved plan or
25 otherwise come into compliance with the requirements of this chapter
26 within 30 days of the notice. A producer, legacy producer, retailer,
27 or stewardship organization that violates a provision of this chapter
28 after the initial written warning may be assessed a penalty as
29 provided in this subsection.

30 (2) (a) Upon the department notifying a stewardship organization,
31 producer, or legacy producer that it has not met a significant
32 requirement of this chapter, the department may, in addition to
33 assessing the penalties provided in this section, take any
34 combination of the following actions:

35 (i) Issue corrective action orders to a producer or stewardship
36 organization;

37 (ii) Issue orders to a stewardship organization to provide for
38 the continued implementation of the program in the absence of an
39 approved plan;

1 (iii) Revoke the stewardship organization's plan approval and
2 require the stewardship organization to implement its contingency
3 plan under RCW 70A.505.040;

4 (iv) Require a stewardship organization to revise or resubmit a
5 plan within a specified time frame; or

6 (v) Require additional reporting related to compliance with the
7 significant requirement of this chapter that was not met.

8 (b) Prior to taking the actions described in (a)(iii) of this
9 subsection, the department must provide the stewardship organization,
10 producer, or legacy producer an opportunity to respond to or rebut
11 the written finding upon which the action is predicated.

12 **Sec. 11.** RCW 70A.505.110 and 2010 c 130 s 11 are each amended to
13 read as follows:

14 (1) The department shall provide on its website a list of all
15 producers participating in a product stewardship plan that the
16 department has approved and a list of all producers the department
17 has identified as noncompliant with this chapter and any rules
18 adopted to implement this chapter.

19 (2) Product wholesalers, retailers, distributors, and electric
20 utilities must check the department's website or producer-provided
21 written verification to determine if producers of products they are
22 selling in or into the state are in compliance with this chapter.

23 (3) No one may distribute or sell mercury-containing lights from
24 producers, or any lights in or into the state from legacy producers,
25 who are not participating in a product stewardship program or who are
26 not in compliance with this chapter and rules adopted under this
27 chapter.

28 (4) (a) The department shall serve, or send with delivery
29 confirmation, a written warning explaining the violation to any
30 person known to be distributing or selling mercury-containing lights
31 from producers, or any lights in or into the state from legacy
32 producers, who are not participating in a product stewardship program
33 or who are not in compliance with this chapter and rules adopted
34 under this chapter.

35 (b) The department must review new, updated, and revised plans
36 submitted by stewardship organizations. The department must:

37 (i) Review new, updated, and revised stewardship organization
38 plans within 120 days of receipt of a complete plan;

1 (ii) Make a determination as to whether or not to approve a plan,
2 plan update, or plan revision and notify the stewardship organization
3 of the:

4 (A) Determination of approval if a plan provides for a program
5 that meets the requirements of this chapter; or

6 (B) Reasons for not approving a plan. The stewardship
7 organization must submit a new or revised plan within 60 days after
8 receipt of the letter of disapproval. In the event that a new or
9 revised plan submitted by a stewardship organization does not
10 sufficiently meet the requirements of this chapter, including any
11 deficiencies identified in the initial letter of disapproval, the
12 department may:

13 (I) Use the enforcement powers specified in this chapter; or

14 (II) Amend the contents of the insufficient new or revised plan
15 in a manner that ensures that the plan meets the requirements of this
16 chapter and the department may require the stewardship organization
17 to implement the plan as amended by the department.

18 (c) The approval of a plan by the department does not relieve
19 producers or legacy producers participating in the plan from
20 responsibility for fulfilling the requirements of this chapter.

21 ~~(5) ((Any person who continues to distribute or sell mercury-~~
22 ~~containing lights from a producer that is not participating in an~~
23 ~~approved product stewardship program sixty days after receiving a~~
24 ~~written warning from the department may be assessed a penalty two~~
25 ~~times the value of the products sold in violation of this chapter or~~
26 ~~five hundred dollars, whichever is greater. The penalty must be~~
27 ~~waived if the person verifies that the person has discontinued~~
28 ~~distribution or sales of mercury-containing lights within thirty days~~
29 ~~of the date the penalty is assessed. A retailer may appeal penalties~~
30 ~~to the pollution control hearings board.~~

31 ~~(6))~~ The department shall adopt rules to implement this
32 ~~((section))~~ chapter.

33 ~~((7))~~ (6) A sale or purchase of mercury-containing lights as a
34 casual or isolated sale as defined in RCW 82.04.040 is not subject to
35 the provisions of this section.

36 ~~((8))~~ (7) A person primarily engaged in the business of reuse
37 and resale of ~~((a))~~ used mercury-containing lights is not subject to
38 the provisions of this section when selling used working mercury-
39 containing lights, for use in the same manner and purpose for which
40 ~~((it was))~~ the lights were originally purchased.

1 (~~(9) In-state distributors, wholesalers, and retailers in~~
2 ~~possession of mercury-containing lights on the date that restrictions~~
3 ~~on the sale of the product become effective may exhaust their~~
4 ~~existing stock through sales to the public.))~~

5 **Sec. 12.** RCW 70A.505.120 and 2017 c 254 s 3 are each amended to
6 read as follows:

7 The mercury-containing light product stewardship programs account
8 is created in the custody of the state treasurer. All funds received
9 from producers and stewardship organizations under this chapter and
10 penalties collected under this chapter must be deposited in the
11 account. Expenditures from the account may be used only for
12 administering this chapter. (~~The department may not retain fees in~~
13 ~~excess of the estimated amount necessary to cover the agency's~~
14 ~~administrative costs over the coming year related to the mercury~~
15 ~~light stewardship program under this chapter. Beginning with the~~
16 ~~state fiscal year 2018, by October 1st after the closing of each~~
17 ~~state fiscal year, the department shall refund any fees collected in~~
18 ~~excess of its estimated administrative costs to any approved~~
19 ~~stewardship organization under this chapter.)) Only the director of
20 the department or the director's designee may authorize expenditures
21 from the account. The account is subject to the allotment procedures
22 under chapter 43.88 RCW, but an appropriation is not required for
23 expenditures.~~

24 **Sec. 13.** RCW 70A.505.130 and 2010 c 130 s 14 are each amended to
25 read as follows:

26 (1) The department may adopt rules necessary to implement,
27 administer, and enforce this chapter.

28 (2) (~~The department may adopt rules to establish performance~~
29 ~~standards for product stewardship programs and may establish~~
30 ~~administrative penalties for failure to meet the standards.~~

31 ~~(3))~~ By (~~December 31, 2010, and annually thereafter until~~
32 ~~December 31, 2014~~) November 1, 2033, the department shall report to
33 the appropriate committees of the legislature concerning the status
34 of the product stewardship program and recommendations for changes to
35 the provisions of this chapter.

36 (~~(4) Beginning October 1, 2014, the~~) (3) The department shall
37 annually invite comments from local governments, communities, and
38 (~~citizens~~) residents to report their satisfaction with services

1 provided by product stewardship programs created under this chapter.
2 This information (~~(must)~~) may be used by the department to determine
3 if the plan operator is meeting convenience requirements and in
4 reviewing proposed updates or changes to product stewardship plans.

5 ~~((5) Beginning October 1, 2014, the department shall annually~~
6 ~~invite comments from retailers, consumer groups, electric utilities,~~
7 ~~the Northwest power and conservation council, and other interested~~
8 ~~parties regarding the impacts of the requirements of this chapter on~~
9 ~~the availability or purchase of energy efficient lighting within the~~
10 ~~state. If the department determines that evidence shows the~~
11 ~~requirements of this chapter have resulted in negative impacts on the~~
12 ~~availability or purchase of energy efficient lighting in the state,~~
13 ~~the department shall report this information by December 31st of each~~
14 ~~year to the appropriate committees of the legislature with~~
15 ~~recommendations for changes to the provisions of this chapter.~~

16 ~~(6) Beginning October 1, 2014, the department shall annually~~
17 ~~invite comments from retailers, consumer groups, electric utilities,~~
18 ~~the Northwest power and conservation council, and other interested~~
19 ~~parties regarding the availability of energy efficient nonmercury~~
20 ~~lighting to replace mercury-containing lighting within the state. If~~
21 ~~the department determines that evidence shows that energy efficient~~
22 ~~nonmercury-containing lighting is available and achieves similar~~
23 ~~energy savings as mercury lighting at similar cost, the department~~
24 ~~shall report this information by December 31st of each year to the~~
25 ~~appropriate committees of the legislature with recommendations for~~
26 ~~legislative changes to reduce mercury use in lighting.~~

27 ~~(7))~~ (4) Beginning October 1, 2014, the department shall
28 annually estimate the overall statewide recycling rate for mercury-
29 containing lights and calculate that portion of the recycling rate
30 attributable to the product stewardship program. The department may
31 require a stewardship organization to submit data as needed for the
32 department to make the estimations required by this subsection.

33 ~~((8))~~ (5) The department may require submission of independent
34 performance evaluations and report evaluations documenting the
35 effectiveness of mercury vapor barrier packaging in preventing the
36 escape of mercury into the environment. The department may restrict
37 the use of packaging for which adequate documentation has not been
38 provided. Restricted packaging may not be used in any product
39 stewardship program required under this chapter.

1 **Sec. 14.** RCW 70A.505.160 and 2014 c 119 s 6 are each amended to
2 read as follows:

3 (1) It is the intent of the legislature that a producer, legacy
4 producer, group of producers or legacy producers, or stewardship
5 organization preparing, submitting, and implementing a mercury-
6 containing light product stewardship program pursuant to this
7 chapter, as well as participating entities in the distribution chain,
8 including retailers and distributors, are granted immunity,
9 individually and jointly, from federal and state antitrust liability
10 that might otherwise apply to the activities reasonably necessary for
11 implementation and compliance with this chapter. It is further the
12 intent of the legislature that the activities of the producer, legacy
13 producer, group of producers or legacy producers, stewardship
14 organization, and entities in the distribution chain, including
15 retailers and distributors, in implementing and complying with the
16 provisions of this chapter may not be considered to be in restraint
17 of trade, a conspiracy, or combination thereof, or any other unlawful
18 activity in violation of any provisions of federal or state antitrust
19 laws.

20 (2) The department shall actively supervise the conduct of the
21 stewardship organization, the producers and legacy producers of
22 mercury-containing lights, and entities in the distribution chain
23 (~~(in determination and implementation of the environmental handling~~
24 ~~charge authorized by)~~) under this chapter.

25 **Sec. 15.** RCW 82.04.660 and 2020 c 20 s 1469 are each amended to
26 read as follows:

27 (1) An exemption from the taxes imposed in this chapter is
28 provided for:

29 (a) Producers, with respect to environmental handling charges
30 added to the purchase price of mercury-containing lights either by
31 the producer or a retailer pursuant to an agreement with the
32 producer;

33 (b) Retailers, with respect to environmental handling charges
34 added to the purchase price of mercury-containing lights sold at
35 retail, including the portion of environmental handling charges
36 retained as reimbursement for any costs associated with the
37 collection and remittance of the charges; and

38 (c) Stewardship organizations, with respect to environmental
39 handling charges received from producers and retailers and to the

1 receipts from charges to participating producers and legacy
2 producers.

3 (2) This section is not subject to the requirements of RCW
4 82.32.805 and 82.32.808.

5 (3) For purposes of this section, the definitions in RCW
6 70A.505.020 apply.

7 **Sec. 16.** RCW 43.21B.110 and 2023 c 455 s 5, 2023 c 434 s 20,
8 2023 c 344 s 5, and 2023 c 135 s 6 are each reenacted and amended to
9 read as follows:

10 (1) The hearings board shall only have jurisdiction to hear and
11 decide appeals from the following decisions of the department, the
12 director, local conservation districts, the air pollution control
13 boards or authorities as established pursuant to chapter 70A.15 RCW,
14 local health departments, the department of natural resources, the
15 department of fish and wildlife, the parks and recreation commission,
16 and authorized public entities described in chapter 79.100 RCW:

17 (a) Civil penalties imposed pursuant to RCW 18.104.155,
18 70A.15.3160, 70A.300.090, 70A.20.050, 70A.230.020, 70A.505.100,
19 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050,
20 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200,
21 70A.455.090, 70A.550.030, 70A.555.110, 70A.560.020, 76.09.170,
22 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
23 90.56.310, 90.56.330, and 90.64.102.

24 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
25 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
26 70A.245.020, 70A.65.200, 70A.505.100, 70A.555.110, 70A.560.020,
27 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

28 (c) Except as provided in RCW 90.03.210(2), the issuance,
29 modification, or termination of any permit, certificate, or license
30 by the department or any air authority in the exercise of its
31 jurisdiction, including the issuance or termination of a waste
32 disposal permit, the denial of an application for a waste disposal
33 permit, the modification of the conditions or the terms of a waste
34 disposal permit, or a decision to approve or deny an application for
35 a solid waste permit exemption under RCW 70A.205.260.

36 (d) Decisions of local health departments regarding the grant or
37 denial of solid waste permits pursuant to chapter 70A.205 RCW.

1 (e) Decisions of local health departments regarding the issuance
2 and enforcement of permits to use or dispose of biosolids under RCW
3 70A.226.090.

4 (f) Decisions of the department regarding waste-derived
5 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
6 decisions of the department regarding waste-derived soil amendments
7 under RCW 70A.205.145.

8 (g) Decisions of local conservation districts related to the
9 denial of approval or denial of certification of a dairy nutrient
10 management plan; conditions contained in a plan; application of any
11 dairy nutrient management practices, standards, methods, and
12 technologies to a particular dairy farm; and failure to adhere to the
13 plan review and approval timelines in RCW 90.64.026.

14 (h) Any other decision by the department or an air authority
15 which pursuant to law must be decided as an adjudicative proceeding
16 under chapter 34.05 RCW.

17 (i) Decisions of the department of natural resources, the
18 department of fish and wildlife, and the department that are
19 reviewable under chapter 76.09 RCW, and the department of natural
20 resources' appeals of county, city, or town objections under RCW
21 76.09.050(7).

22 (j) Forest health hazard orders issued by the commissioner of
23 public lands under RCW 76.06.180.

24 (k) Decisions of the department of fish and wildlife to issue,
25 deny, condition, or modify a hydraulic project approval permit under
26 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
27 comply, to issue a civil penalty, or to issue a notice of intent to
28 disapprove applications.

29 (l) Decisions of the department of natural resources that are
30 reviewable under RCW 78.44.270.

31 (m) Decisions of an authorized public entity under RCW 79.100.010
32 to take temporary possession or custody of a vessel or to contest the
33 amount of reimbursement owed that are reviewable by the hearings
34 board under RCW 79.100.120.

35 (n) Decisions of the department of ecology that are appealable
36 under RCW 70A.245.020 to set recycled minimum postconsumer content
37 for covered products or to temporarily exclude types of covered
38 products in plastic containers from minimum postconsumer recycled
39 content requirements.

40 (o) Orders by the department of ecology under RCW 70A.455.080.

1 (2) The following hearings shall not be conducted by the hearings
2 board:

3 (a) Hearings required by law to be conducted by the shorelines
4 hearings board pursuant to chapter 90.58 RCW.

5 (b) Hearings conducted by the department pursuant to RCW
6 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
7 70A.15.3110, and 90.44.180.

8 (c) Appeals of decisions by the department under RCW 90.03.110
9 and 90.44.220.

10 (d) Hearings conducted by the department to adopt, modify, or
11 repeal rules.

12 (3) Review of rules and regulations adopted by the hearings board
13 shall be subject to review in accordance with the provisions of the
14 administrative procedure act, chapter 34.05 RCW.

15 **Sec. 17.** RCW 70A.230.080 and 2020 c 20 s 1245 are each amended
16 to read as follows:

17 A violation of this chapter, other than a violation of RCW
18 70A.230.020, is punishable by a civil penalty not to exceed (~~one~~
19 ~~thousand dollars~~) \$1,000 for each violation in the case of a first
20 violation. Repeat violators are liable for a civil penalty not to
21 exceed (~~five thousand dollars~~) \$5,000 for each repeat violation.
22 Penalties collected under this section must be deposited in the model
23 toxics control operating account created in RCW 70A.305.180.

24 NEW SECTION. **Sec. 18.** A new section is added to chapter 70A.505
25 RCW to read as follows:

26 The requirements of this chapter cease to apply beginning the
27 earlier of:

- 28 (1) January 1, 2035; or
- 29 (2) A date determined by the department, based on the diminishing
30 number of mercury-containing lights collected by the program reaching
31 a de minimis level where the continued expense and environmental cost
32 of implementing the program would result in continued costs that
33 outweigh the benefits of continuing the program, as calculated in a
34 cost-benefit analysis consistent with the requirements of RCW
35 34.05.328. Unless the department and stewardship organization agree
36 to a different cessation date prior to 2035 without carrying out a
37 cost-benefit analysis, the department must conduct a cost-benefit

1 analysis under this subsection to be completed during calendar year
2 2031.

3 NEW SECTION. **Sec. 19.** A new section is added to chapter 70A.230
4 RCW to read as follows:

5 (1) All persons, residents, government, commercial, industrial,
6 and retail facilities and office buildings must recycle their end-of-
7 life mercury-containing lights.

8 (2) No mercury-containing lights may knowingly be placed in waste
9 containers for disposal at incinerators, waste to energy facilities,
10 or landfills.

11 (3) No mercury-containing lights may knowingly be placed in a
12 container for mixed recyclables unless there is a separate location
13 or compartment for the mercury-containing lights that complies with
14 local government collection standards or guidelines.

15 (4) No owner or operator of a solid waste facility may be found
16 in violation of this section if the facility has posted in a
17 conspicuous location a sign stating that mercury-containing lights
18 must be recycled and are not accepted for disposal.

19 (5) No solid waste collector may be found in violation of this
20 section for mercury-containing lights placed in a disposal container
21 by the generator of the mercury-containing light.

22 NEW SECTION. **Sec. 20.** (1) RCW 70A.505.090 (Producers must
23 participate in an approved product stewardship program) and 2010 c
24 130 s 9, as now existing or hereafter amended, are each repealed,
25 effective January 1, 2029.

26 (2) RCW 82.04.660 (Exemptions—Environmental handling charges—
27 Mercury-containing lights) and 2020 c 20 s 1469 & 2015 c 185 s 2, as
28 now existing or hereafter amended, are each repealed, effective
29 January 1, 2035.

30 NEW SECTION. **Sec. 21.** The following acts or parts of acts are
31 each repealed:

32 (1) RCW 43.131.421 (Mercury-containing lights product stewardship
33 program—Termination) and 2021 c 65 s 47 & 2014 c 119 s 7;

34 (2) RCW 43.131.422 (Mercury-containing lights product stewardship
35 program—Repeal) and 2021 c 65 s 48, 2017 c 254 s 4, & 2014 c 119 s 8;
36 and

1 (3) RCW 70A.230.150 (Requirement to recycle end-of-life mercury-
2 containing lights) and 2010 c 130 s 8.

3 NEW SECTION. **Sec. 22.** The following acts or parts of acts, as
4 now existing or hereafter amended, are each repealed, effective
5 January 1, 2035:

6 (1) RCW 70A.505.010 (Findings—Purpose) and 2010 c 130 s 1;

7 (2) RCW 70A.505.020 (Definitions) and 2020 c 20 s 1414;

8 (3) RCW 70A.505.030 (Product stewardship program) and 2020 c 20 s
9 1415, 2014 c 119 s 3, & 2010 c 130 s 3;

10 (4) RCW 70A.505.040 (Submission of proposed product stewardship
11 plans—Department to establish rules—Public review—Plan update—
12 Annual report) and 2020 c 20 s 1416, 2017 c 254 s 2, 2014 c 119 s 4,
13 & 2010 c 130 s 4;

14 (5) RCW 70A.505.050 (Environmental handling charge—Annual fee)
15 and 2020 c 20 s 1417, 2017 c 254 s 1, 2014 c 119 s 5, & 2010 c 130 s
16 5;

17 (6) RCW 70A.505.060 (Collection and management of mercury) and
18 2010 c 130 s 6;

19 (7) RCW 70A.505.070 (Collectors of unwanted mercury-containing
20 lights—Duties) and 2010 c 130 s 7;

21 (8) RCW 70A.505.080 (Requirement to recycle end-of-life mercury-
22 containing lights) and 2010 c 130 s 8;

23 (9) RCW 70A.505.090 (Producers must participate in an approved
24 product stewardship program) and 2010 c 130 s 9;

25 (10) RCW 70A.505.100 (Written warning—Penalty—Appeal) and 2010 c
26 130 s 10;

27 (11) RCW 70A.505.110 (Department's website to list producers
28 participating in product stewardship plan—Required participation in a
29 product stewardship plan—Written warning—Penalty—Rules—Exemptions)
30 and 2010 c 130 s 11;

31 (12) RCW 70A.505.120 (Product stewardship programs account—Refund
32 of fees) and 2017 c 254 s 3 & 2010 c 130 s 13;

33 (13) RCW 70A.505.130 (Adoption of rules—Report to the legislature
34 —Invitation to entities to comment on issues—Estimate of statewide
35 recycling rate for mercury-containing lights—Mercury vapor barrier
36 packaging) and 2010 c 130 s 14;

37 (14) RCW 70A.505.140 (Application of chapter to the Washington
38 utilities and transportation commission) and 2010 c 130 s 15;

1 (15) RCW 70A.505.150 (Application of chapter to entities
2 regulated under chapter 70A.300 RCW) and 2020 c 20 s 1418 & 2010 c
3 130 s 16;

4 (16) RCW 70A.505.160 (Immunity from antitrust liability) and 2014
5 c 119 s 6;

6 (17) RCW 70A.505.900 (Chapter liberally construed) and 2010 c 130
7 s 17; and

8 (18) RCW 70A.505.901 (Severability—2010 c 130) and 2010 c 130 s
9 21.

10 NEW SECTION. **Sec. 23.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

Passed by the House March 5, 2024.
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